IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
WRIT PETITION NO.1184 OF 2004

Gopal K. Anand ..Petitioner.
V/s.
Indian Bank & Ors. ..Respondents.

Mr. Prakash Wagh with Narendra Purohit for petitioner.

Mr. S.U.Kamdar with Prerna Janvekar and Ms.Chhaya Shah for respondent Nos.1 to 4.

CORAM : SWATANTER KUMAR, C.J. &
J.P. DEVADHAR, J.

DATED : 6TH DECEMBER, 2007.

P.C. :

We have heard learned counsel for the parties. Perused the record. The petitioner is questioning the correctness and legality of the order of dismissal dated 26th March, 2003 and 27th November, 2003 passed by the Disciplinary Authority and Appellate Authority thereby dismissing the petitioner from service.

2. The petitioner who was working as an Assistant Manager of the Indian Bank was charged with the following three Articles of charges :-

(1) He has stealthlity removed 22 DD Leaves

bearing Nos. 930091 to 930112 from the series of continuous DD forms held at Nariman Point Branch and had provided 9 blank DD leaves to 4 (four) accomplices who had tried to encash fraudulently one DD No.930111 for Rs.1,11,000/-.

(2) In this regard he was arrested by Police on 11.03.00 and remanded in Police custody till 18.03.00 and a case was registered against him alongwith four other accused.

(3) During the course of investigation police have recovered 5 (five) Demand Draft leaves bearing Nos.930095, 930096, 930107, 930108 and 930109 from you and other accused.

3. The Articles of charges are stated to have been proved in the Departmental Enquiry. The Enquiry Officer submitted his report dated 27/12/2002. The Enquiry report was accepted by the Disciplinary Authority, which resulted in passing of the above two orders dismissing the services of the petitioner.

The contention raised on behalf of the petitioner primarily is that the punishment inflicted on the petitioner is

wholly disproportionate to the gravity of the charges and constitutional right. Further, it is contended that there was no evidence to substantiate the Enquiry report. The Petitioner having been acquitted by the Court of Competent jurisdiction in a Criminal offence arising from the same allegations, the petitioner ought not to have been dismissed from service.

4. We find no merit to accept either of these contentions. Firstly, it is settled principle that principles of Criminal jurisprudence are not applicable to the Departmental Enquiry. In the present case, the Articles of Charge framed are of grave nature and it relates to theft of the Demand Drafts and these are stated to have been recovered from the possession of the petitioner. The mere fact that the petitioner has been acquitted by the Court of Competent jurisdiction vide its Judgment dated 14/12/2000 per se would not be a ground for holding that the Articles of charge framed against the petitioner in the Departmental Enquiry are liable to be quashed. We may note here that the petitioner was acquitted from the Criminal charge because the original Demand Drafts were not produced by the prosecution during the trial. This does not indicate that they were not recovered from the petitioners. Once Demand

Drafts were recovered from the petitioner for which a panchanama was drawn, it was for the petitioner to show that no such recovery was made from him, in the Departmental Enquiry. Bare reading of the Enquiry report show that there is evidence to substantiate the Articles of charges. This Court does not sit in Appeal over the order of the Appellate Authority and would not normally interfere in the orders of the Disciplinary Authority unless they were shown to be perverse or there was no evidence whatsoever to substantive the Articles of charge. None of these grounds exists in the present case.

5. We are unable to accept the contention of the petitioner that the punishment inflicted upon the petitioner is harsh and unconstitutional keeping in view the gravity of the Articles of charge. It is a case where the petitioner was holding a responsible post of Assistant Manager in a Bank. The Bank has public dealing and public money was saddled with the bank. In the instant case, Demand Drafts from serial Nos. 9030091 to 930112 were taken from the bank and subsequently recovered from the possession of the petitioner and other accused. In the peculiar facts and circumstances of the case, we do not think that the punishment inflicted on the petitioner

would prick the judicial conscience of the Court and can be said to be disproportionate to the gravity of the Articles of charge. We find no merit in the petition and dismiss the same. There shall be no order as to costs.

6. At the oral request of the petitioner, we direct the petitioner to be in possession of the quarters for two months from today provided the petitioner pays the rent as per demand.

CHIEF JUSTICE

J.P.DEVADHAR,

J.